

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-529-C - ORDER NO. 95-447 ✓
FEBRUARY 21, 1995

IN RE: Application of Westinghouse Electric Corporation d/b/a Westinghouse Communications for a Certificate of Public Convenience and Necessity for Authority to Resell Intrastate Interexchange Telecommunications Services Within the State of South Carolina.)ORDER
)APPROVING
)CERTIFICATE
)
)
)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Westinghouse Electric Corporation d/b/a Westinghouse Communications (Westinghouse or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1993) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Westinghouse to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Westinghouse's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Westinghouse complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the Consumer Advocate for the

State of South Carolina (the Consumer Advocate).

Discussions between Westinghouse and the Consumer Advocate led Westinghouse to agree to certain amendments to its proposed tariff. Subsequently, the Consumer Advocate informed the Commission that it was satisfied that Westinghouse's offering was consistent with other resellers approved by the Commission and that the Consumer Advocate would not participate in the scheduled hearing in this Docket.

A public hearing was commenced on February 1, 1995, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. Westinghouse was represented by Frank R. Ellerbe, III, Esquire; Florence P. Belser, Staff Counsel, represented the Commission Staff.

In support of its Application, Westinghouse presented the testimony of Thomas J. O'Toole, Vice President of Operations for Westinghouse Communications. Mr. O'Toole explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a non-facilities based reseller. Mr. O'Toole described the Company's services, its managerial, technological, and financial resources, and its marketing procedures. Mr. O'Toole also admitted that Westinghouse had completed incidental long distance calls in South Carolina and that Westinghouse agreed to refund the charges for these calls. Mr. O'Toole agreed to provide the Commission with the amount of these

charges.¹

After full consideration of the applicable law, the Company's Application, the evidence presented by the Company and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Westinghouse is incorporated under the laws of the State of Pennsylvania, and has received a Certificate of Authority to Transact Business as a Foreign Corporation in the State of South Carolina.

2. Westinghouse operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.

3. Westinghouse has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Westinghouse to provide intrastate interLATA service and to originate and terminate toll traffic in the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

1. Subsequent to the hearing, Westinghouse provided a report which showed that Westinghouse had collected \$30,331.78 in intrastate South Carolina revenues. At Staff's request, this report was submitted as Hearing Exhibit No. 2.

2. The Commission adopts a rate design for Westinghouse for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Westinghouse shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Westinghouse shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1993).

4. Westinghouse is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if they so desire.

6. Westinghouse shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Westinghouse changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and the termination of toll traffic in the same LATA, Westinghouse shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

8. Westinghouse shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

9. Westinghouse shall file its revised tariff and accompanying price list reflecting the findings herein and its agreed upon tariff amendments within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the Commission's Rules and Regulations. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

10. Westinghouse shall refund to its customers all charges collected by it prior to the date of this Order. These refunds shall be issued within thirty (30) days of the date of this Order and shall include interest at the rate of 12% per annum. The Company shall file with the Commission all necessary information to

certify that the refunds have been made.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL
AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).